

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EURO PACIFIC CAPITAL, INC., individually and in its capacity as Investor Representative and attorney-in-fact for ALEXANDER AND YANA GALUZ, AMY J. STEFANIK, ANN STRUVE, ANTHONY NAHUM, ART KLEPPEN AND KIMBERLY KLEPPEN, BARBARA ELLIS, BARBARA HEARST, BARBARA S. MEISTER, BENJAMIN R. EARL AND JONEE D. EARL, BERT JUDE HUNTSINGER, BLAKE AND LISA EVERETT, BRUCE FRANKLIN, BRUCE RAVENEL, BURT YANO AND PATRICIA YANO, CAROL COOPER, CAROLYN R. LONG, CHARLES BRABENAC, CHARLES M. CLAUSSEN AND MICHELLE S. CLAUSSEN, CHARLES SULLIVAN AND CAROL SULLIVAN, CHARLOTTE J. BELASCO, CHIN HSIAO, CINDY J. LEWIS, CLIFF WARD, COREY SHANNON MCNAMEE, CURTIS ANDREW BEESON AND BRENDA BATENBURG, CYNTHIA KESSLER AND JAMES KESSLER, DAMON SUTER AND MALINDA SUTER, DANIEL J. GRIFFIN, DARREL LEE KLOECKNER, DAVID ALAN SCULLY, DAVID W. LARSON AND JENNIFER L. LARSON, DEBORAH FOREMAN, DENNIS FRIED AND JOYCE FRIED, DIANE D. SPOLUM, DONALD GIRARD CLARK JR. AND DEBRA L. CLARK, DONALD T. GLASER JR., DOUGLAS W. JOHNSON, EDGAR SIMONS, EDWARD CHARLES MOHR, ELIZABETH RICHARDS, ELMIRA GADOL, FRANCIS BRENT MAY AND JONEITA JEAN MAY, FRANK CARDILE SR., FRED HARPER, GARY LEE BUKAMIER, GARY MARDER, GAYLE M. AND DEBORAH SANDERS, GEORGE FELDMAN, GEORGE K. CHING, GEORGE MADARAZ, GERALD AND BEVERLY R BARNE, GERALD MONA, GERARD SURERUS, GERSHOM LUNDBERG, GILBERT DOMINGUEZ, KENNETH RAY GLEASON, HARNEK THIARA AND TALWINDER THIARA, HEIDI W. KIENE AND KEVIN KIENE, HENRY LOUIS SCHAIRER JR., HOWARD W. WAHL, J. MARK MCPHERSON, JACK AND TAMI FINEGOLD, JACK ABRAMS AND MARGO ABRAMS, JAMES A. SHEAHAN AND MELODY K. SHEAHAN, JAMES A. TAMBORELLO, JAMES ALLEN LUTTER, JAMES CURTIS BROWN, JAMES D. DREYER JR., JAMES V. BACON, JASON HANDZA AND ALEXANDRA HANDZA, JASON L. RAWLINGS AND

Index No. 1:15-cv-04636-CM

**MOTION FOR DEFAULT
JUDGMENT**

LEANNE K. RAWLINGS, JEFF ARCHIBALD,
JEFFREY REISNER, JOANNE COLTRIN AND
ANDRE COLTRIN, JOHN MAVAR, JOHN T. KEALY
AND JANINE K. KEALY, JONATHAN EDWARDS
AND VIRGINIA C. ADAMS, JOSEPH MCCARTHY
AND MIKI MCCARTHY, JOSH D. BRADBURY, JR.,
SUSAN BRADBURY, JOSHUA SCHEIN, JULIA L.
GRIFFIN, JUSTIN KERENYI, KARL K. SPIELMAN
AND MELINDA G. ELKIN, KENNETH NASS, KENT
SCOTT AND LAURA SCOTT, KERRY LEE AND
HELEN WELSH, KEVIN P. O'NEILL AND SUZANNE
ODELL O'NEILL, KURT SWOGGER, LARRY
BRUNZLICK, LARRY E. GROFF AND DORIS R.
GROFF, LARRY GUAGLIARDO, LAURA D.
MCHUGH, LAWRENCE J. BUTZ, LAWRENCE
LEARY, LLOYD E. HENDRIX, LOUIS A. LARSON
AND PAMELA J. LARSON, MARC KASSIN, MARC
W. LEVIN, MARK A. OSTERHAUS, MARK DUGGER,
MARK R. MITCHELL, MARSHALL CARL RICE,
MARY HEINKING, MARY NEIBERG, MARYANN
MIGAS, MATT HAYDEN, MATTHEW C. AMERMAN
AND CARRIE AMERMAN, MEHRAN TASLIMI,
MICHAEL MATULA, MICHAEL SCULLY, MICHELLE
GRIFFIN, MIRIAM SCHWARTZ, MITCHELL MARTIN
AND DEBORAH MARTIN, NANCY L. BENSON,
NICOLAS KARAMAOUN, OLEKSANDR TUMKO
AND OKSANA TUMKO, PAMELA HARRINGTON
MUNRO, PAT BROWNE, PATRICK AND GLORIA
KIRK, PATRICK MULLEN, PAUL DIPAOLO AND
NANCY L. WORTHINGTON, PAUL E. SORGE JR.,
PAUL HARPER ZINK, PETER D. SCHIFF, PETER
SCHORTMANN AND SUSAN SCHORTMANN,
QUINCY MURPHY, RALPH DALE EDSON,
RANDELL SCOTT GLEASON AND MICHELE LEE
GLEASON, RICHARD MOORE, RICHARD P.
ANTHONY III AND KIMBERLY J. ANTHONY,
RICHARD POTAPCHUK, ROBERT DAGGETT,

ROBERT E. CATHRO, ROBERT HEIMANN,
ROBERT L. BISHOP AND FRANCINE BISHOP,
ROBERT NEAL SPADY AND LINDA SPADY,
ROBERT T. FOSS AND MARGARET FOSS, ROD
MCINTYRE, ROYCE V. JACKSON, RUSSELL B.
WALKER, RUSSELL PARKER, SARAH J. BASLER
AND DONALD S. BASLER, SCOTT MUELLER,
SCOTT R. GRIFFIN, SCOTT R. LENNES, SHERRY
MORSE MACCABEE AND JOHN GREENBERGER
MACCABEE, SHIDAN TASLIMI, STANLEY J.
DRELICK, STEPHEN P. MCCARRON, STEPHEN
RASKIN, STEVE SMITH, STEVEN PAUL HARMS,
TERRY ALAN CREWS, TERRY OLSON AND LINDA
M. OLSON, THOMAS AARON LADNER, TIMOTHY
CARROLL, TIMOTHY CRANE, TIMOTHY NASS,
TIMOTHY WEAVER, TINA C. PETERSON AND
HENDRIKUS M. SCHRAVEN, TODD A. HANNON
AND MICHELLE L. HANNON, TONY BIZ AND
JEANNE C. LIM, VADA NOBLES, VINCE BACOLINI,
VIVEK GHAI, VLJKO DJORDJEVIC, WALTER
FRIESEN, WILLIAM BRADLEY, WILLIAM J. CYR,
WILLIAM WILEY AND MARIANNE WILEY, WILLIS
DUNKUM III, YADIN ROZOV, and DOES 1-100,

Plaintiffs,
vs.

U.S. CHINA MINING GROUP, INC. and HONGWEN
LI,

Defendants.

Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, the Plaintiff, Euro Pacific Capital, Inc. ("Plaintiff" or "Euro Pacific"), hereby move the Court for a default judgment against Defendants U.S. China Mining Group, Inc. ("USCM") and Hongwen Li ("Li") (collectively, "Defendants") based upon Defendants' failure to appear and respond to the Complaint. In support of this Motion, Plaintiff avers as follows:

1. On June 16, 2015, Plaintiff filed the Summons and Complaint.

2. On June 30, 2015, Plaintiff caused Li to be served with the Summons and Complaint by leaving a copy at Li's residence or usual place of abode with Jane Doe Li, a person of suitable age and discretion who resides at that location. Copies were also placed in the United States mail, in a sealed envelope by First Class mail with postage prepaid on July 7, 2015. Proof of such service was filed on July 23, 2015, Doc # 10.

3. On July 10, 2015, Plaintiff caused USCM to be served with the Summons and Complaint by personally serving the Nevada Secretary of State at 202 N. Carson Street, Carson City, NV 89701. Proof of such service was filed on July 23, 2015, Doc. # 9.

4. Defendants have not appeared in this action, and the time to appear or otherwise respond to the Plaintiff's Verified Complaint has expired.

5. On September 11, 2015, the Clerk of this Court entered a default against Defendants for failure to appear pursuant to Fed. R. Civ. P. 55(a).

6. Defendants are not an infant or an incompetent person.

7. The monetary damages being claimed by the Plaintiff for the purposes of entering a default judgment against Defendants are in an amount to be determined by the Court together with costs, attorneys' fees and interest. Upon grant of this motion for default judgment, Plaintiff will file a motion for proof of claims.

8. In support of this Motion, Plaintiff also submits (i) a Memorandum of Law and (ii) the Affirmation of Christopher L. Ayers.

WHEREFORE, Plaintiff respectfully requests that this court grant the Motion for Default Judgment against Defendants on all counts of the Complaint, as follows:

1. Order China Mining to provide Euro Pacific, individually and in its capacity as Investor Representative and attorney-in-fact for the Shareholders, with copies of the books and records for inspection in New York;
2. Award Euro Pacific, in its capacity as Investor Representative and attorney-in-fact for the Shareholders, an option to "put" their shares in China Mining at fair market value, to be determined by the Court at an inquest hearing following the submission of Plaintiff's proofs of claim;
3. Grant a mandatory injunction requiring China Mining to report under the Exchange Act pursuant to the SPA;
4. Order Defendants to prepare an accounting of all profits earned as a result of their misappropriation of SPA offering proceeds;
5. Award Euro Pacific, individually, damages of at least \$1,000,000.00 to compensate Plaintiff for all their business losses and reputational damages, plus interest, to be determined by the Court at an inquest hearing following the submission of Plaintiff's proofs of claim;
6. Award compensatory damages in favor of Euro Pacific, individually and in its capacity as Investor Representative and attorney-in-fact for the Shareholders, against Mr. Li in an amount sufficient to compensate Plaintiff for all losses and damages, plus interest, to be determined by the Court at an inquest hearing following the submission of Plaintiff's proofs of claim;

7. Award Euro Pacific, individually and in its capacity as Investor Representative and attorney-in-fact for the Shareholders, punitive damages against Defendants, in an amount to be determined by the Court at an inquest hearing following the submission of Plaintiff's proofs of claim;

8. Award Euro Pacific, individually and in its capacity as Investor Representative and attorney-in-fact for the Shareholders, attorneys' fees and costs of suit incurred herein, in an amount to be determined by the Court at an inquest hearing following the submission of Plaintiff's proofs of claim; and

9. Award Euro Pacific, individually and in its capacity as Investor Representative and attorney-in-fact for the Shareholders, such other and further relief as this Court deems just and proper.

Dated: November 12, 2015

ANDERSON KILL P.C.

By: /s/ Christopher L. Ayers
Christopher L. Ayers
1251 Avenue of the Americas
New York, NY 10020
(212) 278-1000
(212) 278-1733

Attorneys for Plaintiff